

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SHERYL MOULTON, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

EUGENE BURGER MANAGEMENT
CORPORATION, a California Corporation;
EUGENE J. BURGER; KEVIN BERG;
KAREN BRIGG; PHIL FRINK &
ASSOCIATES, INC.; PHILLIP E. FRINK;
GAYLE A. KERN, LTD; GAYLE A. KERN;
ULLA CHRISTENSEN, both as individual
and Lakeside Plaza Board Director; DANIEL
JOSEPH, both as individual and Lakeside
Plaza Board Director; FRANK A. PERAU,
both as individual and Lakeside Plaza Board
Director; RICH SVIHLA, both as individual
and Lakeside Plaza Board Director;
LAKESIDE PLAZA CONDOMINIUM
ASSOCIATION; and DOES 1-500,

Defendants.

3:08-cv-00176-RCJ-RAM

ORDER

Currently before the Court is a Motion to Dismiss or for Summary Judgment filed by Defendant Gayle A. Kern, Ltd. ("Kern") on January 11, 2010. Plaintiff did not file an opposition.

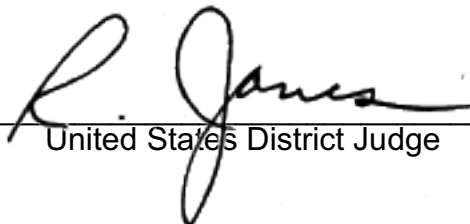
Under Local Rule 7-2(d), "[t]he failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." However, "a nonmoving party's failure to comply with local rules does not excuse the moving party's

1 affirmative duty under rule 56 to demonstrate its entitlement to judgment as a matter of law.”
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3 See Martinez v. Stanford, 323 F.3d 1178, 1182 (9th Cir. 2003) (citing Fed. R. Civ. P. 56).

4 The Court has fully considered Kern’s Motion, the evidence presented, and applicable
5 law. Kern has affirmatively demonstrated its entitlement to summary judgment by showing that
6 there is no genuine issue of material fact and it is entitled to judgment as a matter of law as
7 to Plaintiff’s Fair Debt Collection Practices Act claim.

8 Based on the foregoing, it is hereby ORDERED that Defendant Gayle A. Kern, Ltd.’s
9 Motion to Dismiss or For Summary Judgment (#120) is GRANTED. The Clerk of the Court
10 shall enter judgment accordingly.

11 Dated this 30th day of April, 2010.

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15 United States District Judge
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